IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:10-CR-151-FL-1

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This matter is before the court on defendant's motion (DE 31) seeking relief from judgment and commitment under Federal Rule of Civil Procedure 60(b)(4), based on an alleged violation of a United States Department of Justice Policy referred to as the "Petite Policy," to which the government timely responded (DE 32), as renewed by defendant in his filing entered into the record August 16, 2013 (DE 35), upon that objection raised seven days after the court denied his motion (DE 34).

Construing defendant's request as one sounding as a motion for reconsideration, upon the additional briefing, the court takes the matter up upon the entire record. Again, as the Fourth Circuit has observed, "it is well established that the Petite policy and other internal prosecutorial protocols do not vest defendants with any personal rights." <u>United States v. Jackson</u>, 327 F.3d 273, 295 (4th Cir. 2003). "[A] defendant has no right to have an otherwise valid conviction vacated because government attorneys fail to comply with departmental policy on dual prosecutions." <u>United States v. Howard</u>, 590 F.2d 564, 568 (4th Cir. 1979).

The court has considered all of the arguments lodged by this defendant. It still finds no right accruing to defendant to have his conviction vacated in this instance.

Accordingly, defendant is not entitled to the relief requested, and defendant's motion is DENIED.

SO ORDERED, this the 20th day of August, 2013.

LOUISE W. FLANAGAN United States District Judge